

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

|                                                 |   |                           |
|-------------------------------------------------|---|---------------------------|
| -----                                           | X |                           |
| In re:                                          | : |                           |
|                                                 | : |                           |
| THE FINANCIAL OVERSIGHT AND                     | : | PROMESA                   |
| MANAGEMENT BOARD FOR PUERTO RICO,               | : | Title III                 |
|                                                 | : |                           |
| as representative of                            | : | Case No. 17-BK-3283 (LTS) |
|                                                 | : |                           |
| THE COMMONWEALTH OF PUERTO RICO <i>et al.</i> , | : | (Jointly Administered)    |
|                                                 | : |                           |
| Debtors. <sup>1</sup>                           | : |                           |
|                                                 | : |                           |
| -----                                           | X |                           |

**RESPONSE OF OFFICIAL COMMITTEE OF UNSECURED CREDITORS TO  
MOTION OF BONISTAS DEL PATIO FOR PAYMENT OF CERTAIN  
PROFESSIONAL FEES AND EXPENSES BY THE COMMONWEALTH**

To the Honorable United States District Judge Laura Taylor Swain:

The Official Committee of Unsecured Creditors (the “Committee”)<sup>2</sup> respectfully submits this response (the “Response”) to the *Motion of Bonistas del Patio for Payment of Certain Professional Fees and Expenses by the Commonwealth* [Docket No. 22578] (the “Motion”)<sup>3</sup> filed by Bonistas del Patio, Inc. (“Bonistas”) on October 11, 2022. In support of this Response, the Committee respectfully states as follows:

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<sup>1</sup> The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK-3283- LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17- BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”) (Bankruptcy Case No. 19-BK-5233-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

<sup>2</sup> The Committee is the official committee of unsecured creditors for all Title III Debtors, other than PBA and COFINA.

<sup>3</sup> Capitalized terms used but not defined herein shall have the meanings given to them in the Motion.

## **RESPONSE TO BONISTAS' MOTION**

1. The Committee recognizes that, as a result of the occurrence of the effective date of the Commonwealth plan of adjustment, the Commonwealth's general unsecured creditors no longer have a direct economic stake in the resolution of the Motion. For that reason, the Committee has not incurred the expense of preparing a full, standalone response to the Motion. However, because the Committee remains a fiduciary,<sup>4</sup> it is duty-bound to reiterate its concerns with the Commonwealth paying the fees and expenses of Bonistas' professionals, and, accordingly, the Committee refers the Court to, and incorporates by reference, the Committee's prior responses [Docket Nos. 5100 and 5136] (the "Prior Responses") to AAFAF's *Informative Motion Regarding Stipulation Allowing Administrative Expense Claim of Bonistas Del Patio, Inc.* [Docket No. 5092]. In addition to the arguments raised in the Prior Responses, the Committee also notes that even if Bonistas were able to satisfy the incredibly high bar of showing a substantial contribution in the COFINA case,<sup>5</sup> this would, at most, support an administrative expense claim against COFINA, not the Commonwealth.

2. Finally, and obviously, the Committee believes that the views of the Oversight Board and the Fee Examiner should be heard regarding the relief sought in the Motion.

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<sup>4</sup> To be clear, because the Commonwealth plan of adjustment is still subject to various appeals, the Committee continues to exist in the Commonwealth case until such time as the confirmation order in connection with the Commonwealth plan becomes a final order. *See Modified Eighth Amended Title III Joint Plan of Adjustment of the Commonwealth of Puerto Rico, et al.*, § 90.1.

<sup>5</sup> *See, e.g., In re Synergy Pharms. Inc.*, 621 B.R. 588, 610 (Bankr. S.D.N.Y. 2020) ("Thus, it is settled that creditors face an especially difficult burden in passing the 'substantial contribution' test since they are presumed to act primarily in their own interests.") (as modified) (internal references and quotation marks omitted); *In re Pub. Serv. Co. of New Hampshire*, 160 B.R. 404, 452 (Bankr. D.N.H. 1993) ("Creditors normally act in their own economic self-interest and any incidental benefit to the estate is an indirect by-product of their pursuit of their own self-interest. Given this reality, it is hardly surprising that courts greet creditors' 'substantial contribution' claims with a degree of skepticism.") (footnotes omitted).

WHEREFORE, the Committee respectfully requests that the Court deny the Motion and grant any other relief as is just and proper.

Dated: November 29, 2022

By: /s/ Luc A. Despins

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